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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
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9 CHARLES McNELTON,

10 Petitioner,

11 vs.

12 RENEE BAKER, *et al.*,

13 Respondents.
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) 2:00-cv-0284-RCJ-CWH
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ORDER

15 On April 25, 2013, this court entered an order lifting the stay and reopening proceedings in
16 this case. ECF No. 130. In addition, the court allowed petitioner ninety (90) days within which to
17 file an amended petition for a writ of habeas corpus. *Id.* After obtaining an extension of time,
18 petitioner filed his second amended petition on September 27, 2013. ECF No. 133.

19 The amended petition having been filed, the court shall now set a schedule for further
20 litigation of this action.

21 **IT IS THEREFORE ORDERED:**

22 1. **Response to Petition.** Respondents shall have until and including **December 2, 2013**, to
23 file and serve an answer or other response to petitioner's second amended petition for writ of habeas
24 corpus (ECF No. 133).

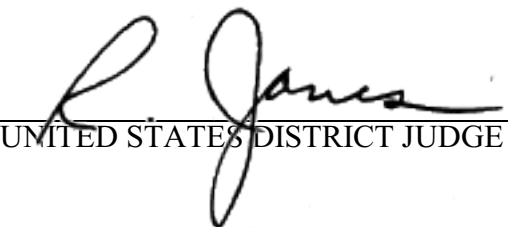
25 2. **Reply and Response to Reply.** Petitioner shall have **forty-five (45) days** following
26 service of an answer by respondents to file and serve a reply. Respondents shall thereafter have

1 **thirty (30) days** following service of a reply to file and serve a response to the reply.

2 3. **Briefing of Motion to Dismiss.** If respondents file a motion to dismiss, petitioner shall
3 have **thirty (30) days** following service of the motion to file and serve an opposition to the motion.
4 Respondents shall thereafter have **thirty (30) days** following service of the opposition to the motion
5 to file and serve a reply.

6 4. **Evidentiary Hearing.** If petitioner wishes to request an evidentiary hearing, petitioner
7 shall file and serve a motion for an evidentiary hearing concurrently with, but separate from, his
8 reply to respondents' answer or his opposition to respondents' motion to dismiss. The motion for an
9 evidentiary hearing must specifically address why an evidentiary hearing is required, and must meet
10 the applicable requirements of 28 U.S.C. § 2254(e). The motion must identify whether an
11 evidentiary hearing was held in state court, and, if so, state where the transcript is located in the
12 record. If petitioner files a motion for an evidentiary hearing, respondents shall file and serve a
13 response to that motion concurrently with, but separate from, their response to petitioner's reply or
14 their reply in support of a motion to dismiss. Petitioner shall thereafter have **twenty (20) days**,
15 following service of respondents' response to the motion for an evidentiary hearing, to file and serve
16 a reply in support of that motion.

17 DATED: This 7th day of October, 2013.

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20 UNITED STATES DISTRICT JUDGE
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